

Thereafter Thomas White elder, in his daughter Marion's contract of marriage with Patrick Thomson, covenanted to pay with her 4000 merks of tocher. Of this contract James Gray, as assignee of Margaret Mathison, relict of Thomas White younger, raised reduction upon this ground, That Thomas White elder, having become bankrupt, could not enter into such an obligation in prejudice of Margaret Mathison's liferent provision, for which he was priorly bound, as burden-taker for his son, by which he, as *correus*, had subjected himself to the fulfilling of any obligation his son had come under in his contract of marriage with her.

It was *answered*, That the father became only obliged to pay 3000 merks to his son, but was not bound to employ the same with the wife's tocher; that the son alone was taken bound to perform that part of the contract; and though the father, as administrator in law, authorised his son, because then a minor, which gave occasion to the usual clause in the beginning of the contract, 'With the special advice and consent of his said father, and the said Thomas White elder, for himself, and taking burden upon him for his said son, and they both of one consent and assent,' &c. yet that could never imply that the father was cautioner for the son in those obligations in which the son was alone bound.

THE LORDS found, That Thomas White elder was not bound in his son's contract of marriage for the liferent of the 5000 merks thereby provided to his wife Margaret Mathison, and now assigned to James Gray; and therefore found he could not reduce Thomson's contract of marriage on the ground of that credit.

Reporter, Lord Cullen. Act. Ch. Binning. Alt. H. Dalrymple, sen. Clerk, Mackenzie.
Fol. Dic. v. 3. p. 127. Edgar, p. 123.

1730. January 1. KENNEDIES against RONALD.

A WOMAN, in her contract of marriage, obliging herself to pay to her husband 2000 merks of tocher, at least to subscribe and deliver assignations to as many sufficient bonds as would extend to that sum; this clause was found to import, that the sum must be paid by bond or assignation as aforesaid, and that the moveable goods and gear which fell otherwise to the husband, *jure mariti*, could not be imputed in payment thereof.

Fol. Dic. v. 1. p. 146.

See This case: *vocæ* HUSBAND and WIFE.

1743. February 19.

MARGARET GARDEN, Relict of GILBERT STEWART, Merchant in Edinburgh,
against JOHN STEWART, &c. Representatives of the said Gilbert.

THE said Gilbert Stewart having married Margaret Garden, he, by a post-nuptial contract, provided her in L. 30 of annuity, in case she survived him,

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sum on good security. This obligation was found to affect the son only, not the father personally.

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No 27.
It was provided, in a contract of marriage, that the